

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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GERARDO MOTA BAUTISTA, HUGO  
BAUTISTA, JUAN LUIS OVANDO  
ZEPEDA, JUAN ZEPEDA, JULIO RICARDO  
ALVAREZ MACATOMA, LEONCIO  
TORRES ACUNA, MARIO MORALES  
ROJAS, OMAR RODRIGUEZ, and  
ANTONIO LIMON HERNANDEZ

*Individually and on behalf of others similarly  
situated,*

Case No.: 19-cv-08808-AT

Plaintiffs,

-against-

**ANSWER WITH  
AFFIRMATIVE DEFENSES**

NOBLE CONSTRUCTION GROUP, LLC  
(D/B/A NOBLE CONSTRUCTION GROUP),  
EDWARD M. GEERLOF, JR. JORDAN  
GARRIDO, MIKE GARRIDO, and MARTIN  
DOE (a/k/a PERU),

Defendants.

-----X

Defendants JORDAN GARRIDO (“Jordan”) and MICHAEL GARRIDO s/h/a MIKE

GARRIDO. (“Mike”)(collectively, the “Garrido Defendants”), by their attorneys Donald N.

Rizzuto, Esq., P.C. answer the Amended Complaint of Plaintiffs GERARDO MOTA

BAUTISTA, HUGO BAUTISTA, JUAN LUIS OVANDO ZEPEDA, JUAN ZEPEDA, JULIO

RICARDO ALVAREZ MACATOMA, LEONCIO TORRES ACUNA, MARIO MORALES,

ROJAS, OMAR RODRIGUEZ and ANTONIO LIMON HERNANDEZ (collectively,

“Plaintiffs”) on behalf of the Garrido Defendants as follows:

1. The Garrido Defendants deny the allegations contained in Paragraph 1 of the  
Amended Complaint and specifically aver that Plaintiffs were not employed by the Garrido  
Defendants.

2. The Garrido Defendants deny the allegations contained in Paragraph 2 of the Amended Complaint.

3. The Garrido Defendants deny the allegations contained in Paragraph 3 of the Amended Complaint.

4. The Garrido Defendants deny sufficient knowledge and information to formulate any belief as to the allegations contained in paragraph 4 of the Amended Complaint.

5. The Garrido Defendants deny the allegations contained in Paragraph 5 of the Amended Complaint.

6. The Garrido Defendants deny the allegations contained in Paragraph 6 of the Amended Complaint.

7. The Garrido Defendants deny the allegations contained in Paragraph 7 of the Amended Complaint.

8. The Garrido Defendants deny the allegations contained in Paragraph 8 of the Amended Complaint.

9. The Garrido Defendants deny the allegations contained in Paragraph 9 of the Amended Complaint.

10. The Garrido Defendants deny the allegations contained in paragraph 10 of the Amended Complaint, except admit that Plaintiffs purport to bring this action pursuant to the Fair Labor Standards Act, as amended, 29 U.S.C. §§ 201 *et seq.* (the “FLSA”) and the N.Y. Labor Law §§ 190 *et seq.* and 650 *et seq.* (the “NYLL”), and the Garrido Defendants respectfully refer all questions of law to the Court.

11. There is no allegation of fact contained in paragraph 11 of the Amended Complaint which would require a response. To the extent a response is required, the Garrido

Defendants deny the allegations contained in paragraph 11 of the Amended Complaint, and respectfully refer all questions of law to the Court.

12. There is no allegation of fact contained in paragraph 12 of the Amended Complaint which would require a response. To the extent a response is required, the Garrido Defendants deny the allegations contained in paragraph 12 of the Amended Complaint, and respectfully refer all questions of law to the Court.

13. There is no allegation of fact contained in paragraph 13 of the Amended Complaint which would require a response. To the extent a response is required, the Garrido Defendants deny the allegations contained in paragraph 12 of the Amended Complaint, and respectfully refer all questions of law to the Court.

14. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 14 of the Amended Complaint.

15. The Garrido Defendants deny the allegations contained in Paragraph 15 of the Amended Complaint.

16. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 16 of the Amended Complaint.

17. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 17 of the Amended Complaint.

18. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 18 of the Amended Complaint.

19. The Garrido Defendants deny the allegations contained in Paragraph 19 of the Amended Complaint.

20. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 20 of the Amended Complaint.

21. The Garrido Defendants deny the allegations contained in Paragraph 21 of the Amended Complaint.

22. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 22 of the Amended Complaint.

23. The Garrido Defendants deny the allegations contained in Paragraph 23 of the Amended Complaint.

24. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 24 of the Amended Complaint.

25. The Garrido Defendants deny the allegations contained in Paragraph 25 of the Amended Complaint.

26. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 26 of the Amended Complaint.

27. The Garrido Defendants deny the allegations contained in Paragraph 27 of the Amended Complaint.

28. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 28 of the Amended Complaint.

29. The Garrido Defendants deny the allegations contained in Paragraph 29 of the Amended Complaint.

30. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 30 of the Amended Complaint.

31. The Garrido Defendants deny the allegations contained in Paragraph 31 of the Amended Complaint.

32. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 32 of the Amended Complaint.

33. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 33 of the Amended Complaint.

34. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 34 of the Amended Complaint.

35. The Garrido Defendants deny the allegations contained in Paragraph 35 of the Amended Complaint.

36. The Garrido Defendants deny the allegations contained in Paragraph 36 of the Amended Complaint.

37. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 37 of the Amended Complaint.

38. The Garrido Defendants deny the allegations contained in Paragraph 38 of the Amended Complaint.

39. The Garrido Defendants deny the allegations contained in Paragraph 39 of the Amended Complaint.

40. The Garrido Defendants deny the allegations contained in Paragraph 40 of the Amended Complaint.

41. The Garrido Defendants deny the allegations contained in Paragraph 41 of the Amended Complaint.

42. The Garrido Defendants deny the allegations contained in Paragraph 42 of the Amended Complaint and respectfully refer all questions of law to the Court.

43. The Garrido Defendants deny the allegations contained in Paragraph 43 of the Amended Complaint.

44. The Garrido Defendants deny the allegations contained in Paragraph 44 of the Amended Complaint.

45. The Garrido Defendants deny the allegations contained in Paragraph 45 of the Amended Complaint and respectfully refer all questions of law to the Court.

46. The Garrido Defendants deny the allegations contained in Paragraph 46 of the Amended Complaint.

47. The Garrido Defendants deny the allegations contained in Paragraph 47 of the Amended Complaint.

48. The Garrido Defendants deny the allegations contained in Paragraph 48 of the Amended Complaint and aver the Plaintiffs were never employed by the Garrido Defendants.

49. The Garrido Defendants deny the allegations contained in Paragraph 49 of the Amended Complaint and aver the Plaintiff Mota was never employed by the Garrido Defendants.

50. The Garrido Defendants deny the allegations contained in Paragraph 50 of the Amended Complaint and aver the Plaintiff Mota was never employed by the Garrido Defendants.

51. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 51 of the Amended Complaint.

52. The Garrido Defendants deny the allegations contained in Paragraph 52 of the Amended Complaint.

53. The Garrido Defendants deny the allegations contained in Paragraph 53 of the Amended Complaint.

54. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 54 of the Amended Complaint.

55. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 55 of the Amended Complaint.

56. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 56 of the Amended Complaint.

57. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 57 of the Amended Complaint.

58. The Garrido Defendants deny the allegations contained in Paragraph 58 of the Amended Complaint.

59. The Garrido Defendants deny the allegations contained in Paragraph 59 of the Amended Complaint.

60. The Garrido Defendants deny the allegations contained in Paragraph 60 of the Amended Complaint.

61. The Garrido Defendants deny the allegations contained in Paragraph 61 of the Amended Complaint.

62. The Garrido Defendants deny the allegations contained in Paragraph 62 of the Amended Complaint and respectfully refer all questions of law to the Court.

63. The Garrido Defendants deny the allegations contained in Paragraph 63 of the Amended Complaint and respectfully refer all questions of law to the Court.

64. The Garrido Defendants deny the allegations contained in Paragraph 64 of the Amended Complaint.

65. The Garrido Defendants deny the allegations contained in Paragraph 65 of the Amended Complaint and aver the Plaintiff Batista was never employed by the Garrido Defendants.



66. The Garrido Defendants deny the allegations contained in Paragraph 66 of the Amended Complaint and aver the Plaintiff Batista was never employed by the Garrido Defendants.

67. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 67 of the Amended Complaint.

68. The Garrido Defendants deny the allegations contained in Paragraph 68 of the Amended Complaint.

69. The Garrido Defendants deny the allegations contained in Paragraph 69 of the Amended Complaint.

70. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 70 of the Amended Complaint.

71. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 71 of the Amended Complaint.

72. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 72 of the Amended Complaint.

73. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 73 of the Amended Complaint.

74. The Garrido Defendants deny the allegations contained in Paragraph 74 of the Amended Complaint.

75. The Garrido Defendants deny the allegations contained in Paragraph 75 of the Amended Complaint.

76. The Garrido Defendants deny the allegations contained in Paragraph 76 of the Amended Complaint.

77. The Garrido Defendants deny the allegations contained in Paragraph 77 of the Amended Complaint.

78. The Garrido Defendants deny the allegations contained in Paragraph 78 of the Amended Complaint and respectfully refer all questions of law to the Court.

79. The Garrido Defendants deny the allegations contained in Paragraph 79 of the Amended Complaint and respectfully refer all questions of law to the Court.

80. The Garrido Defendants deny the allegations contained in Paragraph 80 of the Amended Complaint and respectfully refer all questions of law to the Court.

81. The Garrido Defendants deny the allegations contained in Paragraph 81 of the Amended Complaint and respectfully refer all questions of law to the Court.

82. The Garrido Defendants deny the allegations contained in Paragraph 82 of the Amended Complaint and aver the Plaintiff Juan Luis Zapeda was never employed by the Garrido Defendants.

83. The Garrido Defendants deny the allegations contained in Paragraph 83 of the Amended Complaint and aver the Plaintiff Juan Luis Zapeda was never employed by the Garrido Defendants.

84. The Garrido Defendants deny the allegations contained in Paragraph 84 of the Amended Complaint.

85. The Garrido Defendants deny the allegations contained in Paragraph 85 of the Amended Complaint.

86. The Garrido Defendants deny the allegations contained in Paragraph 86 of the Amended Complaint.

87. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 87 of the Amended Complaint.

88. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 72 of the Amended Complaint.

89. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 89 of the Amended Complaint.

90. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 90 of the Amended Complaint.

91. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 91 of the Amended Complaint.

92. The Garrido Defendants deny the allegations contained in Paragraph 92 of the Amended Complaint.

93. The Garrido Defendants deny the allegations contained in Paragraph 93 of the Amended Complaint.

94. The Garrido Defendants deny the allegations contained in Paragraph 94 of the Amended Complaint and respectfully refer all questions of law to the Court.

95. The Garrido Defendants deny the allegations contained in Paragraph 95 of the Amended Complaint and respectfully refer all questions of law to the Court.

96. The Garrido Defendants deny the allegations contained in Paragraph 96 of the Amended Complaint and respectfully refer all questions of law to the Court.

97. The Garrido Defendants deny the allegations contained in Paragraph 97 of the Amended Complaint and respectfully refer all questions of law to the Court.

98. The Garrido Defendants deny the allegations contained in Paragraph 98 of the Amended Complaint.

99. The Garrido Defendants deny the allegations contained in Paragraph 99 of the Amended Complaint and aver the Plaintiff Juan Zapeda was never employed by the Garrido Defendants.

100. The Garrido Defendants deny the allegations contained in Paragraph 100 of the Amended Complaint and aver the Plaintiff Juan Zapeda was never employed by the Garrido Defendants.

101. The Garrido Defendants deny the allegations contained in Paragraph 101 of the Amended Complaint.

102. The Garrido Defendants deny the allegations contained in Paragraph 102 of the Amended Complaint.

103. The Garrido Defendants deny the allegations contained in Paragraph 103 of the Amended Complaint.

104. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 104 of the Amended Complaint.

105. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 105 of the Amended Complaint.

106. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 106 of the Amended Complaint.

107. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 107 of the Amended Complaint.

108. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 108 of the Amended Complaint.

109. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 109 of the Amended Complaint.

110. The Garrido Defendants deny the allegations contained in Paragraph 110 of the Amended Complaint.

111. The Garrido Defendants deny the allegations contained in Paragraph 111 of the Amended Complaint.

112. The Garrido Defendants deny the allegations contained in Paragraph 112 of the Amended Complaint.

113. The Garrido Defendants deny the allegations contained in Paragraph 113 of the Amended Complaint.

114. The Garrido Defendants deny the allegations contained in Paragraph 114 of the Amended Complaint and respectfully refer all questions of law to the Court.

115. The Garrido Defendants deny the allegations contained in Paragraph 115 of the Amended Complaint and respectfully refer all questions of law to the Court.

116. The Garrido Defendants deny the allegations contained in Paragraph 116 of the Amended Complaint and respectfully refer all questions of law to the Court.

117. The Garrido Defendants deny the allegations contained in Paragraph 117 of the Amended Complaint and aver the Plaintiff Macatoma was never employed by the Garrido Defendants.

118. The Garrido Defendants deny the allegations contained in Paragraph 118 of the Amended Complaint and aver the Plaintiff Juan Zapeda was never employed by the Garrido Defendants.

119. The Garrido Defendants deny the allegations contained in Paragraph 119 of the Amended Complaint.

120. The Garrido Defendants deny the allegations contained in Paragraph 120 of the Amended Complaint.

121. The Garrido Defendants deny the allegations contained in Paragraph 121 of the Amended Complaint.

122. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 122 of the Amended Complaint.

123. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 123 of the Amended Complaint.

124. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 124 of the Amended Complaint.

125. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 125 of the Amended Complaint.

126. The Garrido Defendants deny the allegations contained in Paragraph 126 of the Amended Complaint.

127. The Garrido Defendants deny the allegations contained in Paragraph 127 of the Amended Complaint.

128. The Garrido Defendants deny the allegations contained in Paragraph 128 of the Amended Complaint.

129. The Garrido Defendants deny the allegations contained in Paragraph 129 of the Amended Complaint and respectfully refer all questions of law to the Court.

130. The Garrido Defendants deny the allegations contained in Paragraph 130 of the Amended Complaint and respectfully refer all questions of law to the Court.

131. The Garrido Defendants deny the allegations contained in Paragraph 131 of the Amended Complaint and respectfully refer all questions of law to the Court.

131. The Garrido Defendants deny the allegations contained in Paragraph 131 of the Amended Complaint.

132. The Garrido Defendants deny the allegations contained in Paragraph 117 of the Amended Complaint and aver the Plaintiff Acuna was never employed by the Garrido Defendants.

133. The Garrido Defendants deny the allegations contained in Paragraph 117 of the Amended Complaint and aver the Plaintiff Acuna was never employed by the Garrido Defendants.

134. The Garrido Defendants deny the allegations contained in Paragraph 134 of the Amended Complaint and aver the Plaintiff Acuna was never employed by the Garrido Defendants.

135. The Garrido Defendants deny the allegations contained in Paragraph 135 of the Amended Complaint.

136. The Garrido Defendants deny the allegations contained in Paragraph 136 of the Amended Complaint.

137. The Garrido Defendants deny the allegations contained in Paragraph 137 of the Amended Complaint.



138. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 138 of the Amended Complaint.

139. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 139 of the Amended Complaint.

140. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 140 of the Amended Complaint.

141. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 141 of the Amended Complaint.

142. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 142 of the Amended Complaint.

143. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 143 of the Amended Complaint.

144. The Garrido Defendants deny the allegations contained in Paragraph 144 of the Amended Complaint.

145. The Garrido Defendants deny the allegations contained in Paragraph 145 of the Amended Complaint.

146. The Garrido Defendants deny the allegations contained in Paragraph 146 of the Amended Complaint.

147. The Garrido Defendants deny the allegations contained in Paragraph 147 of the Amended Complaint and respectfully refer all questions of law to the Court.

148. The Garrido Defendants deny the allegations contained in Paragraph 148 of the Amended Complaint and respectfully refer all questions of law to the Court.

149. The Garrido Defendants deny the allegations contained in Paragraph 149 of the Amended Complaint and respectfully refer all questions of law to the Court.

150. The Garrido Defendants deny the allegations contained in Paragraph 150 of the Amended Complaint.

151. The Garrido Defendants deny the allegations contained in Paragraph 117 of the Amended Complaint and aver the Plaintiff Morales Rojas was never employed by the Garrido Defendants.

152. The Garrido Defendants deny the allegations contained in Paragraph 152 of the Amended Complaint and aver the Plaintiff Morales Rojas was never employed by the Garrido Defendants.

153. The Garrido Defendants deny the allegations contained in Paragraph 153 of the Amended Complaint.

154. The Garrido Defendants deny the allegations contained in Paragraph 154 of the Amended Complaint.

155. The Garrido Defendants deny the allegations contained in Paragraph 155 of the Amended Complaint.

156. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 156 of the Amended Complaint.

157. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 157 of the Amended Complaint.

158. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 158 of the Amended Complaint.

159. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 159 of the Amended Complaint.

160. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 160 of the Amended Complaint.

161. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 161 of the Amended Complaint.

162. The Garrido Defendants deny the allegations contained in Paragraph 162 of the Amended Complaint.

163. The Garrido Defendants deny the allegations contained in Paragraph 163 of the Amended Complaint.

164. The Garrido Defendants deny the allegations contained in Paragraph 164 of the Amended Complaint.

165. The Garrido Defendants deny the allegations contained in Paragraph 165 of the Amended Complaint and respectfully refer all questions of law to the Court.

166. The Garrido Defendants deny the allegations contained in Paragraph 166 of the Amended Complaint and respectfully refer all questions of law to the Court.

167. The Garrido Defendants deny the allegations contained in Paragraph 167 of the Amended Complaint and respectfully refer all questions of law to the Court.

168. The Garrido Defendants deny the allegations contained in Paragraph 168 of the Amended Complaint.

169. The Garrido Defendants deny the allegations contained in Paragraph 169 of the Amended Complaint and aver the Plaintiff Rodriguez was never employed by the Garrido Defendants.

170. The Garrido Defendants deny the allegations contained in Paragraph 170 of the Amended Complaint and aver the Plaintiff Rodriguez was never employed by the Garrido Defendants.

171. The Garrido Defendants deny the allegations contained in Paragraph 171 of the Amended Complaint.

172. The Garrido Defendants deny the allegations contained in Paragraph 172 of the Amended Complaint.

173. The Garrido Defendants deny the allegations contained in Paragraph 173 of the Amended Complaint.

174. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 174 of the Amended Complaint.

175. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 175 of the Amended Complaint.

176. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 176 of the Amended Complaint.

177. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 177 of the Amended Complaint.

178. The Garrido Defendants deny the allegations contained in Paragraph 178 of the Amended Complaint.

179. The Garrido Defendants deny the allegations contained in Paragraph 179 of the Amended Complaint.

180. The Garrido Defendants deny the allegations contained in Paragraph 180 of the Amended Complaint.

181. The Garrido Defendants deny the allegations contained in Paragraph 181 of the Amended Complaint and respectfully refer all questions of law to the Court.

182. The Garrido Defendants deny the allegations contained in Paragraph 182 of the Amended Complaint and respectfully refer all questions of law to the Court.

183. The Garrido Defendants deny the allegations contained in Paragraph 183 of the Amended Complaint.

184. The Garrido Defendants deny the allegations contained in Paragraph 184 of the Amended Complaint and aver the Plaintiff Hernandez was never employed by the Garrido Defendants.

185. The Garrido Defendants deny the allegations contained in Paragraph 185 of the Amended Complaint and aver the Plaintiff Hernandez was never employed by the Garrido Defendants.

186. The Garrido Defendants deny the allegations contained in Paragraph 186 of the Amended Complaint.

187. The Garrido Defendants deny the allegations contained in Paragraph 187 of the Amended Complaint.

188. The Garrido Defendants deny the allegations contained in Paragraph 188 of the Amended Complaint.

189. The Garrido Defendants deny the allegations contained in Paragraph 189 of the Amended Complaint.

190. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 190 of the Amended Complaint.

191. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 191 of the Amended Complaint.

192. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 192 of the Amended Complaint.

193. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 193 of the Amended Complaint.

194. The Garrido Defendants deny the allegations contained in Paragraph 194 of the Amended Complaint.

195. The Garrido Defendants deny the allegations contained in Paragraph 195 of the Amended Complaint.

196. The Garrido Defendants deny the allegations contained in Paragraph 196 of the Amended Complaint and respectfully refer all questions of law to the Court.

197. The Garrido Defendants deny the allegations contained in Paragraph 197 of the Amended Complaint and respectfully refer all questions of law to the Court.

198. The Garrido Defendants deny the allegations contained in Paragraph 198 of the Amended Complaint and respectfully refer all questions of law to the Court.

199. The Garrido Defendants deny the allegations contained in Paragraph 199 of the Amended Complaint.

200. The Garrido Defendants deny the allegations contained in Paragraph 200 of the Amended Complaint and respectfully refer all questions of law to the Court.

201. The Garrido Defendants deny the allegations contained in Paragraph 201 of the Amended Complaint and respectfully refer all questions of law to the Court.

202. The Garrido Defendants deny the allegations contained in Paragraph 202 of the Amended Complaint.

203. The Garrido Defendants deny the allegations contained in Paragraph 198 of the Amended Complaint and respectfully refer all questions of law to the Court.

204. The Garrido Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 204 of the Amended Complaint.

205. The Garrido Defendants deny the allegations contained in Paragraph 205 of the Amended Complaint and respectfully refer all questions of law to the Court.

206. The Garrido Defendants deny the allegations contained in Paragraph 206 of the Amended Complaint.

207. The Garrido Defendants deny the allegations contained in Paragraph 207 of the Amended Complaint and respectfully refer all questions of law to the Court.

208. The Garrido Defendants deny the allegations contained in Paragraph 208 of the Amended Complaint and respectfully refer all questions of law to the Court.

209. The Garrido Defendants deny the allegations contained in Paragraph 209 of the Amended Complaint and respectfully refer all questions of law to the Court.

210. The Garrido Defendants deny the allegations contained in Paragraph 210 of the Amended Complaint and respectfully refer all questions of law to the Court.

211. There is no allegation of fact contained in paragraph 211 of the Amended Complaint which would require a response. To the extent a response is required, the Garrido Defendants deny the allegations contained in paragraph 211 of the Amended Complaint, and respectfully refer all questions of law to the Court.



212. The Garrido Defendants deny the allegations contained in Paragraph 212 of the Amended Complaint.

213. The Garrido Defendants deny the allegations contained in Paragraph 213 of the Amended Complaint.

214. The Garrido Defendants repeat, reallege and incorporate by reference their responses to paragraphs 1 through 213 of the Amended Complaint, as if fully set forth herein.

215. The Garrido Defendants deny the allegations contained in Paragraph 215 of the Amended Complaint.

216. The Garrido Defendants deny the allegations contained in Paragraph 216 of the Amended Complaint.

217. The Garrido Defendants deny the allegations contained in Paragraph 217 of the Amended Complaint.

218. The Garrido Defendants deny the allegations contained in Paragraph 218 of the Amended Complaint.

219. The Garrido Defendants deny the allegations contained in Paragraph 219 of the Amended Complaint.

220. The Garrido Defendants deny the allegations contained in Paragraph 220 of the Amended Complaint.

221. The Garrido Defendants repeat, reallege and incorporate by reference their responses to paragraphs 1 through 220 of the Amended Complaint, as if fully set forth herein.

222. The Garrido Defendants deny the allegations contained in Paragraph 222 of the

Amended Complaint.

223. The Garrido Defendants deny the allegations contained in Paragraph 223 of the Amended Complaint.

224. The Garrido Defendants deny the allegations contained in Paragraph 220 of the Amended Complaint.

225. The Garrido Defendants repeat, reallege and incorporate by reference their responses to paragraphs 1 through 224 of the Amended Complaint, as if fully set forth herein.

226. The Garrido Defendants deny the allegations contained in Paragraph 226 of the Amended Complaint.

227. The Garrido Defendants deny the allegations contained in Paragraph 227 of the Amended Complaint.

228. The Garrido Defendants deny the allegations contained in Paragraph 228 of the Amended Complaint.

229. The Garrido Defendants deny the allegations contained in Paragraph 229 of the Amended Complaint.

230. The Garrido Defendants repeat, reallege and incorporate by reference their responses to paragraphs 1 through 229 of the Amended Complaint, as if fully set forth herein.

231. The Garrido Defendants deny the allegations contained in Paragraph 231 of the Amended Complaint.

232. The Garrido Defendants deny the allegations contained in Paragraph 232 of the Amended Complaint.

233. The Garrido Defendants deny the allegations contained in Paragraph 233 of the Amended Complaint.

234. The Garrido Defendants repeat, reallege and incorporate by reference their responses to paragraphs 1 through 233 of the Amended Complaint, as if fully set forth herein.

235. The Garrido Defendants deny the allegations contained in Paragraph 235 of the Amended Complaint.

236. The Garrido Defendants deny the allegations contained in Paragraph 236 of the Amended Complaint.

237. The Garrido Defendants repeat, reallege and incorporate by reference their responses to paragraphs 1 through 236 of the Amended Complaint, as if fully set forth herein.

238. The Garrido Defendants deny the allegations contained in Paragraph 238 of the Amended Complaint.

239. The Garrido Defendants deny the allegations contained in Paragraph 239 of the Amended Complaint.

240. The Garrido Defendants repeat, reallege and incorporate by reference their responses to paragraphs 1 through 239 of the Amended Complaint, as if fully set forth herein.

241. The Garrido Defendants deny the allegations contained in Paragraph 241 of the Amended Complaint.

242. The Garrido Defendants deny the allegations contained in Paragraph 242 of the Amended Complaint.

243. The Garrido Defendants repeat, reallege and incorporate by reference their responses to paragraphs 1 through 242 of the Amended Complaint, as if fully set forth herein.

244. The Garrido Defendants deny the allegations contained in Paragraph 244 of the Amended Complaint.

245. The Garrido Defendants deny the allegations contained in Paragraph 245 of the Amended Complaint.

#### **FIRST AFFIRMATIVE DEFENSE**

246. The Amended Complaint fails to state a claim against the Garrido Defendants upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

247. At all relevant times, the Garrido Defendants acted in good faith and have not violated any rights secured under any federal, state or local laws, rules, regulations or guidelines.

#### **THIRD AFFIRMATIVE DEFENSE**

248. Plaintiffs' claims on behalf of themselves and others similarly situated are barred, in whole or in part, by the applicable statute of limitations.

#### **FOURTH AFFIRMATIVE DEFENSE**

249. The Amended Complaint fails to state a claim under Federal or New York law upon which either pre-judgment or post-judgment interest, punitive, exemplary or liquidated damages or attorneys' fees may be awarded.

#### **FIFTH AFFIRMATIVE DEFENSE**

250. Neither the Plaintiffs nor any member of the proposed class that they seek to represent can establish a willful violation under the FLSA or NYLL.

**SIXTH AFFIRMATIVE DEFENSE**

251. The Garrido Defendants did not proximately cause Plaintiffs nor any member of the proposed class that they seek to represent to sustain any actionable damages.

**SEVENTH AFFIRMATIVE DEFENSE**

252. Class certification is inappropriate, as common questions of law and/or fact do not predominate among the putative members and Plaintiffs.

**EIGHTH AFFIRMATIVE DEFENSE**

253. Class certification is inappropriate, as it is not a superior method for adjudicating this controversy.

**NINTH AFFIRMATIVE DEFENSE**

254. Class certification is inappropriate, as the numerosity requirement cannot be met.

**TENTH AFFIRMATIVE DEFENSE**

255. The Garrido Defendants assert every defense available to them pursuant to the NYLL.

**ELEVENTH AFFIRMATIVE DEFENSE**

256. The Garrido Defendants assert all affirmative defenses provided by Section 195 of the NYLL and all statutory affirmative defenses to the New York State record keeping requirements.

**TWELFTH AFFIRMATIVE DEFENSE**

257. Plaintiffs' claims, and each of them brought on behalf of themselves and the putative class members as set forth in the Amended Complaint, are in whole or in part *de minimus*.

**THIRTEENTH AFFIRMATIVE DEFENSE**

258. The Garrido Defendants reserve the right to amend their Answer to raise additional defenses or pursue any available counterclaims against Plaintiffs and/or the proposed class that they seek to represent as those claims become known during the action.

**FOURTEENTH AFFIRMATIVE DEFENSE**

259. The Garrido Defendants are not real parties in interest in the action upon which any award to the Plaintiff(s) will lie.

Dated: April 16, 2020  
Valley Stream, New York

Yours, etc.,

DONALD N. RIZZUTO, ESQ., P.C.

*Donald N. Rizzuto, Esq*

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By Donald N. Rizzuto, Esq. (DR7722)  
*Attorney for Defendants*  
*Jordan Garrido and Michael Garrido s/h/a*  
*Mike Garrido*  
1 Sylvan Place, Suite 1B  
Valley Stream, New York 11581  
Tel.: (917) 796-5682  
Email: [drizzutoeq@hotmail.com](mailto:drizzutoeq@hotmail.com)

**CERTIFICATE OF SERVICE**

I hereby certify that, on April 16, 2020, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

*/s/ Donald N. Rizzuto*  
Donald N. Rizzuto, Esq. (DR7722)